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ENGINEERING FIELD ACTIVITY, WEST
NAVAL FACILITIES ENGINEERING COMMAND
900 COMMODORE DRIVE
SAN BRUNO, CALIFORNIA 94066-5006

Item 4.11 b

IN REPLY REFER TO:

May 2, 2000

Mr. James Kellogg
Acting Chair
California Transportation Commission
Post Office Box 942873
Sacramento, CA 94273-0001

REC'D BY CTC

MAY 04 2000

Dear Mr. Kellogg:

I am writing in response to your letter of April 17, 2000, concerning the San Francisco-Oakland Bay Bridge East Span Seismic Safety Project.

The Department of the Navy understands how important the East Span Seismic Safety Project (Project) is to the safety of the citizens of the San Francisco Bay area. Thus, we were gratified when, in response to a request by the Mayor of San Francisco, the U.S. Army Corps of Engineers (Corps) agreed to study whether the East Span of the bridge can be retrofitted to a comparable level of safety as the West Span and to study and evaluate safety concerns regarding the current design of the proposed replacement span. The contentious issues generated by the proposed East Span will be clarified, if not, as well, resolved, by these studies.

Similarly, with respect to the City of San Francisco's participation in discussions associated with the Project, the Advisory Council on Historic Preservation (ACHP), by letter of April 19, 2000, to the Federal Highway Administration (FHWA), found serious inadequacies in the process followed thus far by FHWA to comply with the requirements of the National Historic Preservation Act (NHPA). Perhaps of most significance here, the ACHP expressed concern about the lack of coordination among the interested parties and specifically recommended that the City of San Francisco and the City of Oakland be included as concurring parties in the NHPA's Section 106 process for the Project. Specifically, the ACHP stated as follows:

"...We are aware that the proposed replacement of the eastern span of the San Francisco-Oakland Bay Bridge has generated considerable public interest; therefore, we would expect to see a greater level of participation from the public and other interested parties, including extending to the local governments the invitation to participate in the MOA as concurring parties. Because they have participated to some degree in consultation and are expected to cooperate in carrying out the terms of the agreement, we are recommending that the cities of San Francisco and Oakland be invited to concur in the terms of the agreement. Furthermore, as it is likely that San Francisco will become the property owner of record for at least a portion of the construction area during the period of construction, not including the city government at this time would be short-sighted..."

The position of the ACHP precisely follows that which we have been taking for several months, and we do look forward to participating with FHWA, the State, the City of San Francisco, and others in a reenergized NHPA Section 106 process, one that meets the requirements of Federal law.

We are confident that both the Corps' studies and an appropriate NHPA Section 106 consultation process will permit an expeditious resolution of the issues surrounding the bridge to the benefit of the citizens of the State of California and to the Federal Government as well. Thus, we would be pleased to participate in the next meeting with the Commission and urge you to invite all interested parties, including the City of San Francisco, to participate.

Sincerely,



G. J. Buchanan
Captain, CEC, USN
Commanding Officer

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April 17, 2000

Captain G. J. Buchanan, Captain, CEC, Navy
Commanding Officer
Department of the Navy
Engineering Field Activity West
Naval Facilities Engineering Command
900 Commodore Dr.
San Bruno, CA 94066-5006

Dear Captain Buchanan:

The California Transportation Commission was most disappointed with the Navy's **third** refusal to meet with the Commission to discuss the Navy's concerns with the San Francisco-Oakland Bay Bridge East Span Seismic Safety Project. This project affects the lives of the drivers and passengers in the 280,000 vehicles that use the bridge on a daily basis. Given the high probability of a major earthquake in the very near future, the priority and importance of this project cannot be overstated. It is difficult for this Commission to understand the Navy's ongoing unwillingness to meet with this Commission in light of the extreme urgency associated with this project

As the agency responsible for oversight of the Department of Transportation, the Commission continues to believe that it would be highly appropriate for the Navy to meet with the Commission to discuss the Navy's ongoing concerns with the project and the related activities of the Department of Transportation. The need for such a meeting is evident, as the Commission's current understanding of the project history differs significantly from the background set forth in your letter of March 21 and from other public statements made by Navy representatives. The next California Transportation Commission meeting is scheduled for May 10 and May 11, 2000 in Sacramento. Once again we extend an invitation to you and are optimistic that this **fourth** invitation will be honored. As before, the Commission is willing accommodate the Navy's schedule. By attending, the Navy would demonstrate to the Commission and to the citizens of California that the Navy cares about public safety at least as much as it cares about its own base closure procedures.

The issues of particular concern to the Commission are as follows:

In your letter you refer to the "inexplicable exclusion of San Francisco from matters in which it has obvious and substantial interests . . ." This statement is not consistent with the facts currently known to the Commission. The record before the Commission demonstrates that San Francisco has been extensively involved in the project. In fact, the City and County of San Francisco was represented on the Metropolitan Transportation Commission Bay Bridge Design Task Force (Task Force). The mission of the Task Force was to develop a regional recommendation on alignment and bridge type for the potential replacement of the East Span. The Task Force consisted of seven members, two of which were representatives of San Francisco (one appointed by the Mayor and one appointed by the Board of

Supervisors). In July of 1997, the Task Force voted to support a northern alignment, and both San Francisco representatives voted in favor of the northern alignment recommendation. This vote occurred after San Francisco developed its Draft Reuse Plan for Naval Station Treasure Island and this vote presumably accounted for any conflicts between the Draft Reuse Plan and the northern alignment.

On July 21, 1997, shortly before the vote, San Francisco Mayor Willie Brown, Jr., sent a letter to the Chair of the Task Force that stated:

"It is my feeling that the economic development opportunities to the Port of Oakland outweigh the economic opportunities to San Francisco at Yerba Buena Island. Even though it will cost more money to build a signature Bridge, I am willing to support the efforts of the majority of this task force to support the northern alignment."

On August 20, 1997, Mayor Brown hosted a celebration on Treasure Island with then-Governor Pete Wilson for the signing of State Senate Bill 60, which established funding for the project, based on the cost of a new bridge on a northern alignment. On September 5, 1997, Mayor Brown sent a letter to the Director of the Department of Transportation in which he confirmed the intent of San Francisco to convey any property on Yerba Buena Island needed for the project to the State at no cost to the State. Mayor Brown sent a concurrent letter to the Governor confirming the commitment made to the Director. San Francisco was placed on the project development team for the project and was invited to all project development team meetings.

In fact, until June of 1998, the project, including detailed and costly final design of the northern alignment, was moving forward with the full support and participation of San Francisco. For reasons that remain unknown to this Commission, San Francisco reversed its position in June of 1998, at which time it took the position that the northern alignment would interfere with San Francisco's reuse plan for Yerba Buena Island. There were no apparent changes to the reuse plan that would have explained this reversal.

Notwithstanding the change in San Francisco's position, the Department of Transportation continued to solicit the participation of San Francisco in the development of the project. San Francisco remained a member of the project development team. San Francisco was also invited to numerous meetings involving historic preservation issues. The Metropolitan Transportation Commission convened a special meeting, at the request of San Francisco, to provide San Francisco with the opportunity to air its concerns (unfortunately, San Francisco did not explain its reversal in position and chose instead to use this valuable opportunity to make seriatim threats of litigation).

Most recently, the White House convened a meeting of the involved federal agencies to address the concerns of San Francisco. As a result of this meeting, a special independent 3rd party study was conducted by the United States Army Corps of Engineers (with the participation and support of the Navy) to assess the merits of the southern alignment (S-1 Modified) engineering analysis conducted by San Francisco. San Francisco has prepared its engineering analysis to bolster its argument that the Department of Transportation had improperly dismissed certain southern alignments due to conflicts with the East Bay Municipal Utility District sewer outfall. The Corps study, released this January, discredited the San Francisco analysis, and found the position of the Department of Transportation to be properly supported with technical analysis. An additional study, also to be carried out by the Army Corps of Engineers within the next two months, will evaluate the most recent attack by San Francisco against the project - that the self-anchored suspension bridge currently under design is unsafe and that it would be safer and more cost-effective to retrofit the existing bridge. The fact that San Francisco's argument is being given such attention, in light of the legions of pre-eminent experts that have validated the safety of the design as well as the cost-effectiveness of replacement, certainly indicates that San Francisco is being given a tremendous opportunity to have its concerns considered.

The level of attention paid to San Francisco in the development of this project is unparalleled in the experience of this Commission. In short, there is an extensive record indicating that San Francisco has been deeply involved in the development of the project at both the policy and design levels. If the Navy has credible evidence to the contrary, this Commission would like to hear it.

This Commission would also like to understand the Navy's rationale for its continued support of San Francisco given the vacillating and presently questionable position of San Francisco. We are mindful of the fact that the Navy has certain legal obligations under the Base Closure and Realignment Act. However, these obligations do not appear to make the Navy subservient to the desires of San Francisco, the Local Reuse Authority. Our review of some of the basic provisions of the Act indicate that, while the Navy is required to give serious weight to the economic issues facing a Local Reuse Authority (such as San Francisco), the Navy nevertheless has the discretion to override such issues if the Navy finds it appropriate to do so.

The magnitude of the public safety issue involved in this project would certainly appear to provide a basis for the Navy to take a leadership role in the project by making a land transfer decision that may not be fully consistent with the Draft Reuse Plan developed by San Francisco. Additionally, this Commission is unaware of any credible economic analysis in support of San Francisco's position that its reuse will be dramatically affected by a northern alignment. We are aware that the Navy has been attempting to obtain such an analysis from San Francisco and has been unable to do so. Public safety should never be a lower priority than unsubstantiated economic benefits.

Unless and until the Navy agrees to meet with the Commission, the Commission must conclude that its understanding of the situation is correct. We believe that a face-to-face discussion of all of the issues discussed above would be to our mutual benefit. If the Navy declines this fourth invitation to meet, we must unfortunately assume that the Navy has decided to risk the lives of thousands of Bay Area residents by allowing the uncertain and narrow economic concerns of San Francisco to dictate the course of this project. This Commission will also look to the Navy to shoulder the responsibility for any loss of life resulting from such an inexcusable decision.

Sincerely,


JAMES W. KELLOGG
Acting Chair
California Transportation Commission

cc: Vice President Al Gore, The White House, Washington, DC 20501
Honorable William S. Cohen, Secretary of Defense, 1000 Defense Pentagon, Washington, DC 20301-1000
Honorable Richard Danzig, Secretary of the Navy, 1000 Navy Pentagon, Washington, DC 20350-1000
Honorable Willie Brown, Mayor, City and County of San Francisco, 633 Folsom Street, Rm. 109, San Francisco, CA 94107-3606
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